

ESCROW ADVISORY COMMITTEE MEETING
June 7, 2011

Department of Corporations Represented By:

Louisa Broudy, Deputy Commissioner
Kathleen Partin, Special Administrator
DiAun Burns, Special Administrator
David Duong, Senior Examiner
Ann Davila, Escrow Specialist
Valinda Roberts, Chief Officer of Finance Mgmt (Via Telephone Sacramento)
Gillian Small, Acting General Counsel (Via Telephone San Francisco)
Peggy Fairman, Counsel (Via Telephone Sacramento)

Committee Members Present:

P J Garcia
Joe Lins
Beulah Stidham
Bill Nelson

Committee Members Absent:

Genia Engelstad
Jenifer Siou
Diane Boudreau
Jennifer Woodard

1. Opening Remarks

Deputy Commissioner Louisa Broudy opened the meeting and introduced DiAun Burns, Special Administrator of Mortgage Bankers, who was invited because of concerns with some of the mortgage bankers. The meeting was then turned over to Kathleen Partin.

2. Follow-up items from the previous meeting were discussed as follows:

Examination Subcommittee Training and Glossary Update

The examiner training scheduled for the end of May was postponed. David and Diane are in discussions regarding the best time for the training to be scheduled. PJ asked about the finalization of the Glossary of Terms the subcommittee had been working on. The Glossary should help exams run a little smoother.

Short Sale Processing, Facilitating, and Negotiating

Kathy informed the group that a revised request was submitted to OLP for additional review of the issues that were brought up at the last meeting and that the response would be shared at the next meeting.

Use of DRE Corporate Escrow Entities

The issue is the DRE licensing corporations with “escrow” in the name and without the “non independent” language. The Department is looking into whether a corporation meets the definition of a broker to qualify for the exemption. However, the DRE has allowed them to be licensed as such. PJ expressed that it was a consumer issue. Louisa stated that it was an issue that the DRE needed to address. Louisa also stated that the Department needed the agenda items for the DRE and Department meeting from the committee.

Outreach to Other Regulators

Kathy informed the group that the Department does share information with other regulators regarding related entities. In order to request a meeting at a higher level, the Department needs the committee to provide suggestions for the agenda.

Per Diem Interest – Additional Situations

PJ distributed a paper/report that was an overview of Lending and Settlement Issues. It listed the top 12 issues of concern to the members. Among the concerns are penalties to escrow holder and how escrow companies are at a disadvantage with lenders. This information has been provided to CAR, DRE, American Escrow Association (in D.C.), Mortgage Bankers Association, and CEA. Louisa asked PJ about the reaction of other settlement agents. PJ stated that they did not like what was happening either but sometimes would cave because of fear of losing business. Louisa offered that to approach the problem as a group is better. PJ also stated that there was a lack of understanding of separation of each entity. Bill Nelson stated that the issues were quite challenging and these were just some of the issues. He noted that the changes had been more stringent over the past 5 – 7 years.

3. DOC Budget

Kathy distributed the Escrow Fund Balance by Fiscal Year as of April 30, 2011 that showed revenues and expenses. Valinda Roberts described what was covered in each of the expense items. It was noted that Net Salary & Wages were significantly less than the prior year because staffing levels were low early in the year due to several employees who were not working in the escrow law during that time.

4. Department's Support Requested for Exemption from Dodd-Frank Act

Regarding the creation of the Consumer Financial Protection Bureau, (CFPB) a Federal agency that regulates finance law, banks and other financial institutions, Beulah stated that she is working with Art Davis in D.C. in trying to obtain an exemption from the Dodd-Frank Act. She stated that escrow companies have been incorrectly lumped in as banks. The American Escrow Association is working with the industry on obtaining an exemption. The escrow industry does not want any additional regulation, and they do not want any more fees and assessments. Their plan is to write a letter of how they are regulated and to request a letter from the Department confirming they are correct. Louisa stated the Department would need to see the letter that the escrow companies plan to send and then discuss with DOC management what the Department can send in addition to the letter.

5. Commission Disbursements (to Loan Companies)

Kathy turned this item over to PJ. PJ discussed how sometimes the broker wants the commission split 5 ways, etc. In some instances, brokers want to assign their commission as collateral for loans. She asked whether these types of disbursements are allowable. PJ wanted to make the case that if the Department has a position on this issue, it makes it easier for escrow companies not to do these types of disbursements. Kathy reminded the group that laws enacted that effect only escrow agents may have an effect on their ability to compete with other settlement agents that don't have the same restrictions.

6. The Department's Role in Referring Embezzlements to the District Attorney

Kathy stated that all embezzlement cases are considered for referral, but that it is never clear which cases the DA will take. Kathy went on to say that the Department has done some referrals that are refused initially and then the Department finds out that the DA is taking some action. The Department has cooperated in such cases with the DA as much as possible. Bill Nelson stated that the industry didn't see any prosecution to any cases going on. He gave an example of an individual that took \$700,000 and went to Mexico and then came back to the U.S. because he wasn't being pursued. Bill stated that prosecution was needed for such cases in order to get restitution and to put people in jail. Louisa stated that DA/Law Enforcement also looks at the dollar amount of the loss. The feeling from the group was that without prosecution to serve as a deterrent, in essence the "bad guys" were being invited into the escrow business. The members stated that that they were willing to donate their time/work with law enforcement and DA to help them and to protect the escrow

industry. Louisa mentioned that in the past there used to be a task force with the DA, DOC and EAFC and that they had quarterly meetings.

7. Enforcement Action Update

Kathy distributed a handout showing the latest administrative actions and licensing statistics. Licensee numbers are down from last year, but not drastically. The Department continues to receive applications and inquiries.

Kathy encouraged the group to report to her Internet businesses that are not licensed but are doing business in California.

The next meeting is tentatively scheduled for Thursday, September 8, 2011. An E-mail will be sent out to confirm the date.

The meeting adjourned at 11:25 p.m.